

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

SHAWN K. BROWN,

Plaintiff,

v.

JACK BUCHANAN, *et al.*,

Defendants.

Case No. 3:18-cv-00553-MMD-WGC

ORDER

On February 15, 2019, this Court issued an order directing Plaintiff Shawn K. Brown to file his fully completed application to proceed *in forma pauperis* or to pay the full filing fee of \$400 within 30 days from the date of that order. (ECF No. 4 at 3.) The 30-day period has now long expired, and Plaintiff has not filed an application to proceed *in forma pauperis*, paid the full \$400 filing fee, or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming

1 dismissal for lack of prosecution and failure to comply with local rules).

2 In determining whether to dismiss an action for lack of prosecution, failure to obey
3 a court order, or failure to comply with local rules, the Court must consider several factors:
4 (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to
5 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
6 disposition of cases on their merits; and (5) the availability of less drastic alternatives. See
7 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
8 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

9 Here, the Court finds that the first two factors, the public's interest in expeditiously
10 resolving this litigation and the Court's interest in managing the docket, weigh in favor of
11 dismissal. The third factor, risk of prejudice to Defendants, also weighs in favor of
12 dismissal, since a presumption of injury arises from the occurrence of unreasonable delay
13 in filing a pleading ordered by the court or prosecuting an action. See *Anderson v. Air*
14 *West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public policy favoring
15 disposition of cases on their merits—is greatly outweighed by the factors in favor of
16 dismissal discussed herein. Finally, a court's warning to a party that his failure to obey the
17 court's order will result in dismissal satisfies the "consideration of alternatives"
18 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
19 at 1424.

20 The Court's order requiring Plaintiff to file his application to proceed *in forma*
21 *pauperis* or pay the full filing fee within 30 days expressly stated, "[i]f no IFP application or
22 filing fee is received within 30 days, this action will be dismissed." (ECF No. 4 at 3.) Thus,
23 Plaintiff had adequate warning that dismissal would result from his noncompliance with
24 the Court's order to file an application to proceed *in forma pauperis* or pay the full filing fee
25 within 30 days.

26 It is therefore ordered that this action is dismissed without prejudice based on
27 Plaintiff Shawn K. Brown's failure to file an application to proceed *in forma pauperis* or to
28 pay the full filing fee in compliance with this Court's order dated February 15, 2019.

1 It is further ordered that the Clerk of Court enter judgment in accordance with this
2 order and close this case.

3 DATED THIS 5th day of June 2020.

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MIRANDA M. DU
CHIEF UNITED STATES DISTRICT JUDGE
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